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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,101	12/20/2001	Richard Vernon Ford	6533/53662	9681
30505	7590	09/09/2005		
MARK J. SPOLYAR 38 FOUNTAIN ST. SAN FRANCISCO, CA 94114				
EXAMINER CHUNG, JI YONG DAVID				
ART UNIT			PAPER NUMBER	
2143				

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,101

Applicant(s)

FORD, RICHARD VERNON

Examiner

Ji-Yong D. Chung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Remarks

1. Applicant's arguments and amendments filed on June 13, 2005 have been carefully considered.

Applicant's Amendment is based on the phone interview dated June 13, 2005. During the interview, the Examiner indicated that the proposed Amendment (Version 1), pertaining to claim 1, would likely overcome the rejection based on references that were cited as prior art of record in the first Office Action. Applicant then emailed the Examiner a refined version of the claim (Version 2). The Examiner responded with the Interview Summary, dated July 13, 2005, repeating the view that the second version of the claim would likely overcome the rejection based on the references.

The Examiner has formally reviewed Applicant's Amendment (based on Version 2). Upon closer inspection, the Examiner reverses his earlier stance. The Examiner has determined that the amendment to claim 1, as filed and cited in the Interview summary, does not overcome the prior art of record. Discussions of the amendment can be found in the remainder of the instant, non-final Office Action.

2. In addition, the Examiner retracts his position that the proposed, Version 1 of the amendment to claim 1, overcomes the rejections in the first Office Action.

Version 1, as stated on email dated June 12, 2005, reads:

1. (currently amended) A method facilitating deployment of volume-based network policies across a computer network, the method comprising the steps of:
monitoring the aggregate volume of network traffic generated by a plurality of users;

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detecting, relative to at least one of the users, a when the aggregate volume of network traffic crosses a threshold ~~network utilization milestone relative to at least one of the users; and~~

affecting a characteristic associated with the network access provided to the user(s) identified in the detecting step.

The Examiner was *not*, at the time of the Interview, and still is *not* able to find the feature “when the aggregate volume of network traffic crosses a threshold” in the cited references, based on the interpretation that the term “the aggregate volume” designates the aggregate volume of *all* users. Implicit in the interpretation is the understanding that a usage threshold of a user may be set based on the traffic of the whole network.

Unfortunately, the Examiner is unable to find support for his interpretation in the specification.

In view of the preceding, the Examiner reverses his earlier position that Version 1 overcomes the rejections based on prior art of record.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. **Claims 1-4, 6-7, 11-14, and 16-18** are rejected under 35 U.S.C. 102(e) as being anticipated by Baugher et al (Baugher hereinafter).

With respect to claims **1-4, 6-7, 11-14 and 16-18**, the original ground of rejection in the first Office Action is maintained.

In **claims 1-4, 6-7, 11-14, and 16-18**, “first user” has been inserted in place of “users” or “user” by the Amendment. However, ground of rejection that applies to “users” also applies to “the first user” in terms of how each claim reads on the cited references.

In **claims 7 and 17**, phrase “aggregate number of transferred bytes” has been inserted in place of “volume of traffic.” They convey the same meaning as applied to the references. Traffic is measured in packets, which are measured in bytes.

In **claims 1, 6, 11, and 16**, “threshold” has been inserted in place of “a network utilization milestone” by the Amendment. In the first Office Action, “a network utilization milestone” has already been read as ‘threshold.’ Therefore, replacing the word does not help the claims overcome the original rejection.

In **claims 1, 6, 11, and 16**, “aggregate volume of data transfer” has been inserted in place of “volume of traffic” or “volume of network traffic.” Features cited in the first Office Action apply equally well to the replacement phrase. Therefore, the original ground of rejection still applies.

In **claim 1**, the amendment inserts three further limitations. They are discussed below:
over a given time interval [See the original rejection of claim 11];

wherein the network utilization milestone occurs when the aggregate volume of data transfer associated with the first user crosses a threshold [The limitation refers to the occurrence of alert/event upon crossing a threshold. However, this interpretation was read into the original claim in the first Office Action]; and

aggregate volume of data transfer corresponding to each user of a plurality of users ["volume" in the first Office Action was already interpreted as the volume of individual users];

In view of the above, the original ground of rejections for claim 1 is maintained.

With respect to **claim 11**, its amendment reflects the amendment to claim 1. The same explanation for maintaining the original ground of rejection applies.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. **Claims 5, 8-10, 15, 19-24, and 26-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Baugher in view of Amin et al, (Pub. No. 2002/0152319, Amin hereinafter). Amin incorporates U. S. Pat. No. 6,714,987, to Amin et al (Amin2 hereinafter) by reference.

With respect to **claims 5, 8-10, 15, 19-24, and 26-32**, the original ground of rejection in the first Office Action is maintained.

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In **claim 5, 15, 24, and 27** “first user” has been inserted in place of “users” or “user.”

However, ground of rejection that applies to “users” also applies to “the first user” in terms of how each claim reads on the cited references.

In **claims 23, 24, and 27**, “threshold” has been inserted in place of “a network utilization milestone” through the Amendment. In the first Office Action, “a network utilization milestone” has already been read as ‘threshold.’ Therefore, the replacing the word does not overcome the original rejection.

In **claims 23, 24, and 27**, “aggregate volume of data transfer” has been inserted in place of “volume of traffic” or “volume of network traffic.” Features cited in the first Office Action apply equally well to the replacement phrase. Therefore, the original ground of rejection still applies.

The amendments claims 23, 24 and 27 reflect amendment to claims 1 and 11. The same explanation for maintaining the original ground of rejection applies.

7. **Claims 25 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Baugher and Amin as applied to claim 24 above, and further in view of Makuck

With respect to **claim 25**, Amin2 teaches the apparatus, *in response to registration of a new user, is operative to modify the configuration of the network control device to allow access*

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to the second computer network for the new user. See from line 53, column 15 to line 10, column 16 for path selection (“modify the configuration”) when a “new” user is “registered.”

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a user interface as cited in Makuck for creating new user account and “registering” the users, because the combination of Baughes and Amin would not be able to create with new user account, change user parameters (“modify the configuration”), and service new users. The creation and registration of new user accounts must occur prior to servicing users; otherwise, one would not be able to service users based on QoS.

With respect to **claim 26**, Baughes and Amin do not show *comprising a user interface module operative to register new users and create corresponding user accounts in the user account database*. However, Makuck meets the limitation in paragraphs 0149-0151 and Fig. 8.

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ji-Yong D. Chung whose telephone number is (571) 272-7988. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ji-Yong D. Chung
Patent Examiner
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